IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 30TH OCTOBER 2006 / 8TH KARTHIKA 1928

ST.Rev..No. 36 of 2004()

TA.488/2001 of S.T.A.T.ADDL.BENCH,ERNAKULAM
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: PETITIONER/RESPONDENT

M/S. PRASAD ENTERPRISES,
CONVENT ROAD, ERNAKULAM, COCHIN-682035,
REPRESENTED BY ITS PROPRIETOR, V.K.KRISHNA PRASAD

BY ADV. SRI.TOMY SEBASTIAN
SRI.C.S.GOPALAKRISHNAN NAIR

RESPONDENTS: APPELLANTS
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1. STATE OF KERAL, REPRESENTED BY ITS SECRETARY.

2. THE ADDITIONAL APPELLATE, ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM.

3. THE ADDITIONAL SALES TAX OFFICER, IIIRD CIRCLE, ERNAKULAM.

BY GOVERNMENT PLEADER – ADV. SHRI.GEORGEKUTTY MATHEW

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 30/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, J J.

Sales Tax Revision Petition No. 36 of 2004

Dated, this the 30th day of October, 2006

J U D G M E N T

C.N.RAMACHANDRAN NAIR, J.

The question raised in this Sales Tax Revision Petition filed by the assessee is whether the assessee is entitled to concessional rate of tax @ 3% on sale of inkjet printer cartridge used in electronic printer under Entry 12 Schedule II Notification SRO 1728/1993. Even though first appeal was allowed, Sales Tax Tribunal reversed the order holding that notification under which concession in rate of tax claimed by the assessee applies only to electronic printer and not to inkjet cartridge used therein. We heard the learned counsel for the petitioner and the learned Government Pleader.

2. Electronic goods were taxed @ 10% during the relevant year 1996-97under the Item 49 of the first Schedule to the KGST Act, which is extracted hereunder:-

"49 Electronic systems, instruments, apparatus and appliances other than those specified elsewhere in this schedule and spare parts and accessories thereof"

While the rate of tax on electronic goods under Item 49 mentioned above, was 10%, Government vide SRO 1728/1993 granted reduction in rate of tax for some of the electronic items. The relevant Entry 12 of Schedule II of SRO 1728/93 is as follows :

"12 Computer, electronic printer, photocopying machine, FAX machine, Cordless telephone"

From the above, it is clear that concessional rate was applicable only to electronic printer and not to the inkjet cartridge used therein as an accessory. Even though the contention of the counsel for the petitioner, that without cartridge, printer cannot work, is correct and ink cartridge is a necessary accessory for operating the printer, still concessional rate under Entry 12 of the notification stated above is not applicable to cartridge because the said entry does not cover spare parts or accessories but only electronic printer. In other words, while rate of tax on printer remains reduced to 3%, spare parts and accessories of electronic

printer including printer cartridge would attract tax @ 10% under Item 49 of the first Schedule. The Tribunal rightly pointed out that inkjet cartridge though a necessary accessory for use of the printer is a separate commodity and is comparable to motor spirit in an automobile, which is taxable differently from motor vehicle or motor engine. It is to be noted that, inkjet cartridge used in printer was later brought under notification without any retrospective effect which means that concessional rate for cartridge was not available for any period prior to its specific inclusion in the notification. In the circumstance, we find no ground to interfere with the order of the Tribunal and this Sales Tax Revision Petition is accordingly dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M.JOSEPH, JUDGE)

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